

## HOUSE BILL NO. 791

INTRODUCED BY JUNEAU, BIXBY

A BILL FOR AN ACT ENTITLED: "AN ACT APPROPRIATING ~~\$7.5~~ \$6.1 MILLION TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO IMPLEMENT INDIAN EDUCATION FOR ALL; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, Article X, section 1(1), of the Montana Constitution states, "It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state"; and

WHEREAS, Article X, section 1(2), of the Montana Constitution states, "The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity"; and

WHEREAS, in 1989, the Montana Supreme Court held in *Helena School District v. State*, 236 Mont. 44, 769 P.2d 684 (1989), that Article X, section 1(2), "establishes a special burden in Montana for the education of American Indian children which must be addressed as a part of the school funding issues"; and

WHEREAS, 15 years later in *Columbia Falls Elementary School District No. 6, et al. v. State*, Cause No. 04-390 (2004), the District Court found that, despite the admonition by the Montana Supreme Court in *Helena School District*, "it would appear that nothing has been done to effectuate subsection (2) of Article X, Section 1, of the Montana Constitution", and the Court noted, "To have any meaning or effect, the Indian Education for All Act requires resources and programs, which, in turn, require funding. Despite this, the legislature has provided no funding." The Court continued, "In reality, the State appears to be defenseless on Plaintiff's claim that Article X, Section 1(2) of the Montana Constitution has not been implemented by the State despite the constitution's direction to do so"; and

WHEREAS, the Montana Supreme Court in its preliminary order of November 9, 2004, affirming the District Court's decision in *Columbia Falls Elementary*, stated, "We affirm the District Court's conclusion that the current funding system violates Article X, Section 1(2), of the Montana Constitution in that the State has failed to recognize the distinct and unique cultural heritage of American Indians and has shown no commitment in its education goals to the preservation of Indian Cultural identity"; and

WHEREAS, there was legislation passed in 1999 (House Bill No. 528) that expressed the legislative

1 intent of the Montana Constitution's promise in Article X, section 1(2), but there was no funding provided for the  
2 implementation of House Bill No. 528 nor have subsequent Legislatures provided funding for implementation;  
3 and

4 WHEREAS, the K-12 Public School Renewal Commission in September of 2004 outlined specific  
5 recommendations to the Education and Local Government Interim Committee, which endorsed the  
6 recommendations and urged individual legislators to carry the recommendations to the 2005 Legislature,  
7 including the recommendations to fully implement Indian Education for All.

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 NEW SECTION. **Section 1. Appropriation for Indian education for all.** There is appropriated from  
12 the general fund to the superintendent of public instruction ~~\$7.5~~ \$6.1 million for the implementation of the  
13 provisions of Title 20, chapter 1, part 5, which is referred to as Indian education for all.

14  
15 NEW SECTION. **Section 2. Notification to tribal governments.** The secretary of state shall send a  
16 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
17 band of Chippewa.

18  
19 NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2005.

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